



Terms and Conditions of Sale

1. Parties. All references to “Seller” in the Terms and Conditions of Sale (the “Terms”) include Implus Footcare, LLC, and its subsidiaries or affiliates in the United States of America (including any division of the foregoing). All references in this document to “Buyer” include all parents, subsidiaries and affiliates of the entity placing the order. Buyer and Seller may be referred to individually as a “Party” and collectively as the “Parties”. The Terms are binding on the Parties and their successors and permitted assigns.

2. General. All sales to Buyer are subject to the Terms, which shall prevail over any additional or different terms of Buyer's purchase order or other Buyer documents, and any additional or different terms and conditions in any way altering or modifying the Terms are deemed material and expressly rejected by Seller and shall not be binding upon Seller. No modification or alteration of the Terms shall result by Seller's shipment of goods or provision of services (collectively, “Goods”) following receipt of Buyer's purchase order or other documents containing additional or different terms. Seller's acceptance of any order is expressly subject to Buyer's assent to the Terms including any additional or different terms and conditions. Buyer's assent to the Terms shall be conclusively presumed from Buyer's failure to submit written objection, or from Buyer's acceptance of all or any part of the Goods ordered. No addition to or modification of the Terms shall be binding upon Seller unless an officer of Seller agrees to such terms in writing. If Buyer's purchase order or other documents contains terms or conditions contrary to or in addition to the Terms, acceptance of any order by Seller shall not be construed as assent to such contrary or additional terms and conditions, or constitute a waiver by Seller of any of the terms and conditions. Unless alternate terms are contained in a contract or other writing signed by an officer of Seller, the Terms shall control. Any reference to Buyer's purchase order by Seller shall not affect or limit the applicability of the Terms.

3. Prices. Seller's prices and quotes are subject to change without notice, and all such prices expire and become invalid if not accepted within thirty (30) calendar days from the date of issue, unless otherwise noted by Seller in writing. Price extensions, if made, are for Buyer's convenience only, and they, as well as any mathematical, stenographic or clerical errors, are not binding on Seller. Prices shown do not include any sales, excise, or other governmental tax or charge payable by Seller to any federal, state or local authority. Any taxes now or hereafter imposed upon sales or shipments will be added to the purchase price, and Buyer shall reimburse Seller for any such tax or provide Seller with an acceptable tax exemption certificate. All prices and other terms provided to Buyer shall be kept confidential except to the extent a Party is required by law to disclose the same.

4. Payment. Unless otherwise agreed in writing, payment terms are net thirty (30) days DOI (date of invoice) payable in United States of America dollars. Payments due hereunder shall be made in the form of cash, check, money order, ACH, or other tender approved in writing by Seller. Seller will not accept payments for credit accounts made by credit card or other fee-bearing payment methods unless approved in writing by Seller and such payments will be subject to a convenience fee. Seller may, in its sole discretion, apply Buyer's payment against any open charges. Past due accounts bear interest at the lesser of 1.5% per month or the maximum rate permitted by applicable law, continuing after Seller obtains judgment against Buyer. Seller may exercise setoff or recoupment to apply to or satisfy Buyer's outstanding debt. Buyer shall have no right of setoff hereunder, the same being expressly waived hereby. Seller reserves all rights to invoice and be paid for Goods provided to Buyer,



and any terms contained in any of Buyer's purchase orders or other documents that purport to limit in any way the time or manner within which Seller may invoice Buyer are hereby waived by Buyer.

5. Credit. All orders are subject to Seller's continuing approval of Buyer's credit. Credit terms (including payment terms and credit limits) will be set according to Seller's credit guidelines, which may be changed from time to time in Seller's sole discretion. Buyer's credit terms and performance will be reviewed periodically and account credit terms are subject to change in Seller's sole discretion. Seller reserves the right to (a) accept or reject any order of Buyer; (b) limit the quantity or value of Goods that Buyer may purchase; (c) require payment in full before accepting an order; and/or (d) demand that Buyer provide adequate security for an order.

6. Delivery. Delivery dates are approximate. The failure to meet an indicated delivery date will not constitute a breach of the Terms. In no event shall Seller be liable for any delay in delivery or for any special, indirect, incidental, or consequential damages including, but not limited to, cost of shipment, downtime, lost profits (whether direct or indirect), lost sales, or any other damages, penalties or fees resulting from delay in delivery. If Seller's production or delivery of Goods is delayed, Seller may allocate production and delivery among its customers in a manner it deems reasonable. Seller may, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale of Goods, and Buyer shall pay for the Goods shipped whether such shipment is in whole or partial fulfillment of the quantity ordered. Acceptance of the Goods by Buyer upon delivery shall constitute a waiver by Buyer of any claim for damages on account of delay in delivery or performance.

7. Freight, Title and Risk of Loss. All deliveries are EXW Seller's U.S. point of shipment and all responsibility and costs of shipping and delivery beyond Seller's point of shipment shall be borne by Buyer. The point of shipment shall be the shipping dock of Seller's warehouse, factory or other facility that Seller designates at its discretion as its point of shipment from time to time. Unless otherwise agreed in writing by the Parties, Seller reserves the right to select the mode of transport and the identity of the carrier. Title and risk of loss passes to Buyer upon delivery of Goods to the carrier at Seller's point of shipment. Seller shall not be liable for delays, loss or damage in transit.

8. Changes and Returns. Orders cannot be canceled or modified by Buyer after acceptance except with the express written consent of Seller. Any change in product specifications, quantities, destination, shipping schedules or any other aspect of the scope of Goods must be agreed to in writing by Seller and may result in a price and delivery adjustment by Seller. No credit for Goods returned by Buyer shall be given without Seller's prior written authorization. Any credits approved by Seller will be in the form of a credit memo to Buyer. All returns may be subject to a restocking charge of up to fifty percent (50%) of the purchase price of the returned Goods plus any applicable additional shipping and handling fees. The following Goods are not returnable: (a) clearance and closeout products; (b) hazmat items; and (c) items shipped outside of the United States of America.

9. Promotional Allowances. Seller may offer trade spending promotions from time to time on certain Goods and such promotions may be available to Buyer. In order to receive the allowance for any such promotions, Buyer must present Seller with proper documentation



to support the promotions such as a copy of the sales advertisement with the date(s) of sale, selling styles, number of units sold, and any other required documentation.

10. Packaging. Seller will provide the Goods to Buyer in their standard packaging, appropriate for sale of the Goods in the United States of America. Buyer may not repackage or relabel the Goods in any manner prior to sale, except to the extent necessary to comply with applicable foreign, federal, state and local laws and restrictions, in each case relating to any purchase, sale, resale, distribution, promotion, labeling, packaging or marketing by Buyer of any Goods purchased under the Terms. Buyer is solely responsible for determining and complying with any and all such foreign, federal, state and local laws and restrictions.

11. Warranty. Seller represents and warrants that the Goods sold to Buyer (a) will conform to the specifications for the Goods described in the applicable order, and (b) will be free from defects in materials and workmanship. SELLER DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS AND ENDORSEMENTS, EXPRESS OR IMPLIED, WITH REGARD TO THE GOODS SOLD, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER IMPLIED WARRANTIES ARISING OUT OF COURSE OF PERFORMANCE, DEALING, TRADE USAGE OR OTHERWISE.

12. Limitation of Liability. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING DIRECTLY OR INDIRECTLY OUT OF THE PERFORMANCE OR BREACH OF THE TERMS, SHALL SELLER BE LIABLE FOR (a) ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR SIMILAR DAMAGES SUCH AS LOSS OF USE, LOST PROFITS, ATTORNEYS' FEES OR DELAY DAMAGES, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR CAUSED BY SELLER'S BREACH OF THE TERMS, (b) ANY CLAIM THAT PROPERLY IS A CLAIM AGAINST A THIRD PARTY MANUFACTURER, OR (c) ANY AMOUNT EXCEEDING THE AMOUNT PAID TO SELLER FOR GOODS FURNISHED TO BUYER THAT ARE THE SUBJECT OF SUCH CLAIM(S). ALL CLAIMS MUST BE BROUGHT WITHIN ONE (1) YEAR OF ACCRUAL OF A CAUSE OF ACTION.

13. Non-Conforming Goods. No claim for defective or non-conforming Goods will be allowed unless Buyer provides Seller with written notice of the claim within ten (10) days of the date the Goods were delivered to Buyer. To assert such a claim, Buyer must (a) at Seller's request, return to Seller 100% or, if agreed by Seller, a lesser but still statistically relevant percentage of the Goods claimed to be defective or non-conforming, and (b) provide reasonable evidence to support the claim, including, if requested by Seller, results of tests, evaluations and investigations performed by Buyer or Buyer's customer. Goods for which damages are claimed shall not be returned, repaired, or discarded without Seller's prior written consent. If requested by Seller, the defective or non-conforming Goods must be returned to Seller at Buyer's expense within ten (10) days of Seller's request. No claims, rejections or returns for defective or non-conforming Goods will be permitted unless Buyer cooperates with Seller's technical personnel to determine the cause of the defect or non-conformance.

14. Prohibited Acts. Notwithstanding anything to the contrary in the Terms, Buyer shall not make any representations, warranties, guarantees, indemnities, similar claims, or other commitments: (a) actually, apparently, or ostensibly on behalf of Seller; or (b) to any retail consumer regarding the Goods, which representations, warranties, guarantees, indemnities, similar claims, or other commitments are additional to or inconsistent with any then-existing



representations, warranties, guarantees, indemnities, similar claims, or other commitments in the Terms; or (c) engage in any unfair, competitive, misleading, or deceptive practices respecting Seller, its trademarks or brand logos, or the Goods. Buyer has no authority to warrant the goods other than as expressly set forth in writing by Seller. Any warranty that Buyer provide is at Buyer's own risk.

15. Territory. Buyer acknowledge and agree that Goods purchased from Seller are intended for sale only in the United States of America ("Territory"). Any sale or resale by Buyer of Goods outside the Territory without Seller's express written authorization constitutes a violation of the Terms. Buyer is solely responsible for determining and complying with any and all foreign, federal, state and local laws and restrictions that may be applicable to Buyer's purchase or sale of Goods.

16. Force Majeure. Seller shall not be liable for delay or default in delivery resulting from any cause beyond Seller's reasonable control, including, but not limited to, governmental action, pandemics, embargoes, strikes or other labor troubles, fire, damage or destruction of Goods, wars (declared or undeclared), acts of terrorism, manufacturers' shortages, availability or timeliness of transportation, materials, fuels or supplies, acts of God, and any other circumstances beyond Seller's control not enumerated above that prevent Seller from making deliveries or otherwise performing under the Terms in the usual course of business (each a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event: (a) the time for Seller's performance shall be extended reasonably and the Parties shall adjust all affected dates accordingly; (b) the purchase price shall be adjusted for any increased costs to Seller resulting from such Force Majeure Event; and (c) Buyer shall not be entitled to any other remedy.

17. Indemnification. Buyer shall indemnify, defend, and hold Seller and its officers, directors, members, employees, agents, affiliates, successors and assigns harmless from and against any and all costs (including attorneys' fees and expenses), liabilities and damages resulting from or related to any third party (including Buyer's employees) claim, complaint and/or judgment arising from Buyer's use of any Goods furnished hereunder, as well as any negligent, intentional or tortious act or omission of Buyer or any breach by Buyer of the Terms.

18. Collection Costs. Buyer shall pay Seller all costs and expenses of collection, suit, or other legal action brought as a result of the commercial relationship between the Parties, including, but not limited to, all attorneys' fees and expenses, and collection costs incurred pre-suit, through trial, on appeal, and in any administrative or bankruptcy proceedings. Any cause of action that Seller has against Buyer may be assigned without Buyer's consent to any affiliate, parent or subsidiary of Seller, or to a third party collection agency.

19. Compliance with Laws. Buyer is responsible for complying with any and all applicable laws or regulations, including, without limitation, any export law or regulation, as well as any applicable foreign, federal, state and local laws and restrictions, in each case relating to any purchase, sale, resale, distribution, promotion, labeling, packaging or marketing by Buyer of any Goods purchased under the Terms.

20. Choice of Law and Venue. The Terms shall be governed by and construed in accordance with the laws of the State of North Carolina without regard to its conflicts of laws rules, and specifically excluding the UN Convention on Contracts for the International Sale of



Goods. Any action or proceeding arising out of or related to the Terms shall be brought in state or federal courts in Wake County in the Eastern District of North Carolina, and Buyer consents to the exclusive personal jurisdiction of such courts. The Parties irrevocably waive their rights to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action or other proceeding brought by the other with respect to any matter arising out of, or in any way connected with, any purchase of Goods from Seller, whether based upon contractual, statutory, tortious or other theories of liability.

21. Assignment. Buyer may not assign any rights, nor delegate any duties, under the Terms to any third party, including any of its affiliates, without Seller's prior written consent. Any such actual or attempted assignment without Seller's prior written consent shall entitle Seller to cancel any outstanding orders of Buyer. The Terms shall be binding on and inure to the benefit of any permitted successors and assigns.

22. Modifications. Seller reserves the right, at any time and from time to time, to revise the Terms. Seller will post revisions on its website at www.implus.com/policies or otherwise notify Buyer, and the revisions will be effective as soon as Buyer posts them or, if later, on the date specified in the notice or posting. If Buyer does not wish to be bound by the revised Terms or at any time Buyer no longer agree with all the terms and conditions that apply to Buyer, as described in the Terms, then Buyer's sole remedy shall be to cease ordering Goods. Buyer is always bound by the terms and conditions that apply at the time of Buyer's order and Buyer must periodically review the Terms so Buyer know the terms and conditions that apply to Buyer. Buyer has no right to amend any portion of the Terms without Seller's express written consent.

23. Relationship of the Parties. Buyer and Seller are independent contractors and nothing in the Terms shall be deemed or constructed as creating a joint venture, partnership, agency relationship, franchise or business opportunity between Buyer and Seller. Neither Party by virtue of the Terms, will have any right, power, or authority to act or create an obligation, express or implied, on behalf of the other. Each of the Parties assumes responsibility for the actions of its own personnel under the Terms and will be solely responsible for their supervision, daily direction and control, wage rates, withholding income taxes, disability benefits, or the manner and means through which the transactions contemplated by the Terms will be accomplished. Except as provided otherwise in the Terms, Buyer have the sole discretion to determine its methods of operation. The relationship created hereby between Buyer and Seller is solely that of supplier and purchaser. The Terms are made for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy.

24. Termination. In addition to any other remedies that Seller may have, Seller may terminate the Terms and cancel any outstanding orders if Buyer (a) fails to pay any amount when due under the Terms; (b) has not otherwise performed or complied with the Terms, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors. Buyer certifies that it is solvent and that it will advise Seller immediately if it becomes insolvent. Buyer agrees to send Seller written notice of any changes in the form of ownership of Buyer's business within ten (10) business days of such changes.



25. Severability; Waiver. If any provision or part of a provision of the Terms is declared invalid, illegal, or unenforceable, the affected provision will be considered omitted or modified to conform to applicable law. The validity, legality, and enforceability of all other remaining provisions or parts of provisions will remain in full force and effect. Waiver by Seller of any breach of any of the terms and conditions set forth herein shall not be construed as a waiver of any other breach, and the failure of Seller to exercise any right arising from any default of Buyer hereunder shall not be deemed to be a waiver of such right, which may be exercised at any time.